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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,991	03/12/2004	Sahn Lam	5693P054	6881
48102	7590	05/16/2007		
NETWORK APPLIANCE/BLAKELY 12400 WILSHIRE BLVD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			EXAMINER LIE, ANGELA M	
			ART UNIT 2163	PAPER NUMBER
			MAIL DATE 05/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/798,991

Applicant(s)

LAM ET AL.

Examiner

Angela M. Lie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 12 is rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. In this instance, the applicant discloses in claim 12, that the final step would be "allowing the user to apply the cloned replication policy", however "allowing" does not guarantee that the action will actually take place, therefore if the final "allowed" step does not take place, there is no result.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Therrien et al (US Publication 2004/0093555).

As to claims 8 and 12, Therrien discloses an apparatus to enable a user to manage data replication policies, wherein the apparatus comprises: a graphical user

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interface to output to the user (Figure 4) a representation of contents of a data structure containing a plurality of data replication relationships (Figure 4, frequency of replication (14), number of replicas (15)) being implemented by a plurality of storage servers (Figure 3, multiple file-servers), the graphical user interface being configured to enable a user to apply at least one of a plurality of replication policies to each data replication relationship (Figure 4, number of replicas, and backup frequency); and a policy cloning tool to allow the user to select one of the plurality of replication policies (i.e. selecting a policy in the specified file system, paragraph 33) and to automatically clone the selected replication policy (paragraph 69, i.e. replicated across multiple repositories), wherein the cloned replication policy has identical attributes to the selected replication policy (if the file is replicated it has to include the same attributes, because replication means producing multiple copies of the same file), but a different name (Figure 4, policy name which also can be changed, so that the replicated file can have a different name than the original source); and a relationship manager to allow the user to apply the cloned replication policy to a selected one or more of the plurality of data replication relationships (paragraph 69).

As to claims 9 and 13, Therrien discloses apparatus further comprising a policy editor to enable the user to rename the cloned replication policy (Figure 4, policy name tab).

As to claims 10 and 14, Therrien discloses the GUI wherein the policy editor further enables the user to change any attributes of the cloned replication policy (Figure 4, elements 14 or 15).

As to claims 11 and 15, Therrien discloses the GUI further comprising allowing the user to create additional replication policies (paragraph 33, since a storage administrator can create a share, then it is also equivalent with creating an additional policy, since each share has a unique policy).

### ***Response to Arguments***

5. Applicant's arguments filed February 14, 2007 have been fully considered but they are not persuasive.

6. The rejection under 35 U.S.C 101 with respect to claims 8, 9 and 11, was withdrawn by the examiner, because the applicant amended those claims, and currently they recite an apparatus instead of Graphical User Interface.

7. With respect to the applicant assertion on page 7, third paragraph, stating that Therrien does not disclose or suggest anywhere that the user interface of Figure 4 (or any other user interface) is used for replicating policies, the examiner agrees that the GUI of Figure 4 is not directly used to replicate this policy, however this interface allows to specify data replication relationship. As to replicating policies, this is done automatically after the policy is stored (paragraph 69).

8. Furthermore, with respect to the applicant's argument on page 8, end of first paragraph, alleging that Therrien does not disclose that there is any user involvement in or initiation of the process of replicating policies, the examiner disagrees. As clearly stated in paragraph 69, the protection policies are first stored and then replicated across multiple repositories, therefore if the user does not save the policy, it will not be

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replicated. This indirectly teaches selection of a policy and then replicating it. The claimed invention does not include enough details that would disqualify this scenario, therefore according to the broadest, reasonable interpretation the presented prior art still reads on the claimed limitations.

### ***The Prior Art***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zalewski et al (US Publication 2005/0010529) disclose a method and apparatus for building a complete data protection scheme wherein a replication policy is used to prevent from logical failures among the replicated files, and further the replication policy can be modified by a user.
- Rodriguez et al (US Publication 2005/0120025) discloses a policy based management of an redundant array of independent nodes, wherein the system comprises a plurality of replication policies.
- Bantz et al (US Publication 2004/0098419) disclose a method and apparatus for a migration assistant wherein replication policies are accessed in order to perform the migration of data.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Inquiry***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela M. Lie whose telephone number is 571-272-8445. The examiner can normally be reached on M-F.

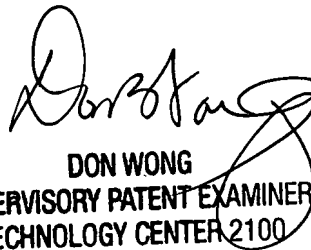
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Angela M Lie**



**DON WONG**  
**SUPERVISORY PATENT EXAMINER**  
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